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SOCIAL RELATIONS OF THE INSANE.

BY DR. HENRY SMITH WILLIAMS.

FOREMOST among the privileges which civilization has taught us to regard as inalienable is the right of personal liberty. Garfield put the essence of this feeling tersely when he said that every man should have the greatest amount of liberty consistent with a like liberty of every other man. All our strivings are, in the last analysis, struggles for a greater degree of personal freedom of action. Laws are considered just only when they give to every citizen an equal opportunity to increase his personal power. Indeed, the province of law is to insure this degree of liberty to every citizen, and just laws do not interfere with any individual so long as he respects this cardinal principle. If a person, through lack of altruism, violates this principle in little things, he is called a boor and is socially ostracized ; if in greater things, he is said to be a criminal, and the law forces upon him that restraint which he would not willingly exercise.

There is one class, however, whose excesses of egotism are commonly excused as far as possible, or dealt with very leniently. I mean the insane. Reacting from the customs of our ancestors not very remote, whose treatment of the insane was simply brutal, we to-day go far towards the other extreme, treating this unfortunate class with a degree of consideration that sometimes seems to verge on excess of altruism. It is true the insane are often restrained of their liberty, but this is almost never done until the afflicted individual has so flagrantly violated the cardinal principle of equal personal rights that his conduct can by no possibility be further tolerated. Let no one suppose that an insane person is commonly sent to an asylum because of his insanity *per se*. Mere mental perversion would be but little, if at all, noticed by the law so long as it stopped at that. Suppose a man to think

himself inspired. Suppose he is everywhere guided by a star that points out to him his way of life. Suppose angel voices whisper incessantly in his ear, directing his every action. That man is insane. But if meanwhile he goes quietly about his business in an ordinary way, showing no anomalies of speech or action, there is not the slightest probability that he will be in any way interfered with by the law.

I desire to especially emphasize this fact. The only exception to it is when action may be taken in an anticipatory way—an expert acting on his knowledge of similar cases, and, as it were, nipping matters in the bud, perhaps saving the insane person the commission of some crime towards which his disease was driving him. But such early action is very unusual, and for ordinary cases what has just been said holds good: an insane person is not restrained of his liberty simply because he is insane, but, if at all, because of the actions that grow out of his insanity. There are, in the aggregate, a vast number of insane persons in the community who are never confined in asylums because their disease does not lead them to commit acts that interfere seriously with the liberties of those about them. An insane person may even act very grotesquely indeed, and say very absurd things without seeming to menace others or himself. He will not usually be restrained.

But in the great majority of cases, so closely are actions wedded to ideas, it will come to pass that the man who has insane conceptions will act upon them in ways that cannot be overlooked. His star is pretty certain to lead him, sooner or later, across the pathway of some other mortal. His angel messengers will suggest to him rights that his fellow mortals cannot recognize. Acting upon these messages he becomes a discordant element in the social organism. Then and not till then does the law take cognizance of him as one whose personal liberties must be curtailed for the general good.

The specific acts by which the insane man interferes with his fellows vary widely within the range of human action. He may merely glance suspiciously at those about him, or he may dash madly along the street firing a revolver at random. Whatever his actions may be within these extremes, he is tolerably certain to make himself very disagreeable to those about him; for, sooner or later, in most cases of insanity an intense egoism comes to

the surface and directs the actions of the patient unrestrained. Usually perversions of conduct are first manifested at home. Those nearest and dearest to the patient are the first to feel the infringement on their rights and privileges. But these are, of course, the ones who would least resent such interference. Often for months or years a family will put up with the outrageous conduct of one of their number uncomplainingly, while the outside world does not suspect that anything is wrong. This is done partly through affection, partly because of the feeling that a case of insanity is in some sense a disgrace to the family.

Sometimes the conduct of the insane person becomes so unbearable that his friends complain at last; sometimes the complaint comes from associates outside the family. In the latter case, the relatives will not usually be willing to admit at first that the patient is insane. Indeed, they often fail to recognize that such is the case even when they have long been the victims of his bizarre actions. But when at last blindness to the true state of affairs is no longer possible, and it is understood that the patient must be restrained, it should never be forgotten that the law prescribes certain definite procedures that are necessary before his sacred right of personal liberty can be curtailed. It is no light matter, and may not be undertaken by any single individual. One may not legally turn the key on his own wife, brother or father, be they never so insane, except long enough to protect them or others while an officer of the law is summoned. This fact should be everywhere understood. Many persons suppose that because a man is palpably insane he has forfeited his rights. Not at all. However insane he may be, his right of personal liberty of action can be taken from him only by due process of law. The exact details of this process vary in different countries and even in different States. The essence of it, under the best systems, is the concurrence of medical and legal opinions. At least two physicians qualified as alienists are usually required to certify under oath that they consider the patient insane, stating their reasons for such opinion. In New York the approval of a judge of a court of record must also be secured. All manner of safeguards, cumbersome but necessary, are thrown about the patient. It is no trivial thing to take away the liberty of a human being.

The legal preliminaries having been complied with, and the

necessary commitment papers to an asylum secured, another serious problem confronts the friends of the patient. How shall the insane person be persuaded to go to the asylum? Here usually a great mistake is made. The friends, almost distracted and not knowing what is best, usually decoy the patient with a falsehood. Now, waiving the point that the truth is something intrinsic and hence not to be perverted at will because the hearer chances to be incompetent, there are practical reasons why it is unwise to deceive the patient. Chief among these is the fact that by so doing you lose his confidence. Ever after when you promise him anything he is likely to recall this deception and reply: "How can I trust you, who once deceived me?" And such an attitude very much embarrasses the relations between the patient and his protectors. Hence the asylum physician makes it a point never to deceive a patient nor allow him to be deceived. He may at his discretion decline to answer a question; but such replies as he does give are expressions of the absolute truth—though not of course necessarily of the whole truth. Experience demonstrates that this is best here, just as everywhere else it has demonstrated that expediency and honesty coincide in the long run.

What the friends of an insane patient should do, then, is to tell him where he is going. If they cannot persuade him to go quietly, let them call an officer. This seems a harsh expedient, but it is best in the end. Most generally the patient, even though very markedly insane, will recognize the majesty of the law as evidenced in its uniformed representative, and will do nothing more than to protest against accompanying him. Indeed, even without an officer, it is surprising how many patients can be persuaded to go quietly to the asylum even while protesting against doing so. In a very large percentage of cases the patient comes so quietly and is, to casual observation, so sane-seeming that even an experienced asylum physician cannot, at a glance, distinguish him from his sane associates. Not infrequently, in attempting to do so, he makes a mistake and selects one of the sane friends, to the amusement of the patient himself, who uses this mistake as a further argument in proof of his own sanity. Of course, this does not apply to all cases. Some are palpably enough insane, as, for example, the despondent melancholiac, or the excited maniac. But not one patient in a hundred presents, on admission to an asylum, the picture of frenzy which stands in

the popular mind as the exposition of "madness." Now and again one does see such a case, it is true—rolling eyes, gnashing teeth, incoherent raving and all—but they are rare indeed. Not often is a patient even so much disturbed as to make any physical restraint necessary in bringing him to the asylum.

Once received into the asylum the patient is classified according to his condition. Exactly the same fundamental principle prevails here that governs conduct in the outside world, an asylum being, indeed, but a modified lesser commonwealth. The patient is allowed the greatest amount of liberty consistent with the rights of others. If he is noisily loquacious or actively maniacal, it would be manifestly unjust to place him among quiet, sane-appearing gentlemen. He would turn their orderly, peaceful ward into pandemonium. He must, in justice to others, be placed in a "disturbed" ward, among patients like himself. But as soon as he becomes quieter and at all able to appreciate the rights of others, he is removed to a ward where greater liberties can be given to him. The prime motive of asylum treatment is to educate the patient back to such a condition of self-restraint and appreciation of the rights of others as will enable him to return to the ordinary environment for which his disease unfitted him. In pursuance of this idea the wards of modern asylums are made as much as may be like ordinary dwellings, and a patient's returning capacity for self-restraint is tested and fostered by removal to better and better wards as convalescence advances.

In favorable cases the time at last comes when the patient is either altogether well or so greatly improved that he can safely be given a trial outside. However long he may have remained in the asylum, the mere fact of such residence does not deprive him of any legal right after his discharge. If no step beyond mere commitment to the asylum has been taken, the patient on leaving the asylum returns to full citizenship. He may still be insane, but in the eye of the law it will be assumed that he is sane unless some further step is taken to prove the contrary. Hence any contracts he may make will hold good, or be the subject of future litigation. If his business relations make it desirable that he shall be officially declared incompetent, whether he is in an asylum or not, it is necessary to hold proceedings before a jury *de lunatico inquirendo*. If here declared insane and incompetent, a guardian, variously named in different States, will be appointed

and the patient will become as a child in the eye of the law, having thenceforth no legal rights except by proxy.

This step is usually postponed as long as possible, while there is any prospect of the patient's recovery. If no great property is involved it often happens that the patient is never declared a "legal lunatic" at all, even though chronically and incurably insane. So it happens that there are many insane persons in the community whose position in the social scale is rather ambiguous. They are actually, but not "legally" insane, and the community in which they live, having adjusted itself to their vagaries, charitably passes them by as "peculiar," and leaves them unmolested. Unfortunately they do not always reciprocate in kind. Indeed it is quite the rule for them to get into difficulties, and not infrequently they commit crimes that bring them prominently before the public in the courts. The "harmless lunatic," outside an asylum, occupies a position strictly analogous to that of the historic "unloaded" pistol. Each is, I think, responsible for about the same number of homicides. But the harmless weapon stops at that, while the harmless man easily takes the palm by adding a long list of other crimes. For most of these crimes the community can thank itself, because it foolishly tolerated in its midst a person whose only safe place of residence was an asylum. But one should not judge too harshly these excesses of altruism. We should remember rather that the extreme tolerance shown these unfortunates who frequent the border lands of sanity is but a manifestation of that love of liberty which has made possible the civilization in which we live. The ages which cast their paranoiacs into dungeons or executed them for witchcraft did not foster the spirit of liberty. Still one may, as I have intimated, go to the other extreme, and the lesson taught the community from time to time by "harmless lunatics," who shoot their fellow citizens, explode bombs among them and the like, is wholesome and necessary, even though severe.

A single bomb exploded in New York not many months ago resulted indirectly in the confinement of a great number of insane persons who would otherwise before this have committed a long category of crimes. The lesson cost a life, it is true, but quite possibly it saved a score of lives. The community was made to realize vividly, what every alienist knew, that the first untoward act by which the supposed harmless insane person manifested

his true condition might be an irreparable crime. The lesson had been taught often enough before. Within a decade it had been emphasized by the murder of a Chief Executive of our country ; but memory is fleeting, and its permanent records come only with many repetitions. Another year, and, it may safely be predicted, the New York juror will have forgotten the Norcross incident, and *habeas corpus* suits for removing "sane" persons from asylums will flourish again as of yore. A community which has witnessed without special comment the organization of a society for the prevention of the "incarceration of sane persons in asylums" in a day and age when no such atrocity as that implied is dreamed of or could be practised, does not yet bask very fully in the light of knowledge. It is in need of yet other lessons. Indeed, it almost seems as if no lesson would permanently suffice, and as if the "harmless lunatic" would pass, with the "unloaded" pistol into the category of things perennial.

In extenuation of the attitude of the community, however, it should be said that much of its uncertainty has arisen through the ambiguities of the criminal courts. Almost every case in which the plea of insanity is brought forward presents peculiar difficulties. In the first place there is the widest difference between the medical and the legal definitions of insanity. The legal view has at least the merit of definiteness of presentation. It regards a man as sane so long as he can distinguish right from wrong. But medical insanity has far wider bounds than this. A large percentage of the patients in any asylum have a well preserved ethical sense, as any one can discover readily by asking each one if he thinks it right that he should be confined where he is. Of course the ethical standards of most of these patients are more or less perverted, but on the broad general questions of right and wrong their ideas are clear enough, though they may not act on them.

On several occasions a patient has said to me : "I could kill you if I wished, and I could not be punished, because, being in an asylum, I could introduce the plea of insanity." And he was right, because no jury would convict a man for a crime committed while in an asylum. Yet in a strict interpretation of the law such a person could be held accountable had he executed the implied threat. In the instances where asylum physicians have been killed by patients, it has usually been by those who were

able to plan the murder carefully, and who probably took into account the immunity from punishment which their asylum residence assured them. They were perfectly aware that what they did was wrong. Hence, according to the legal definition, they were responsible. But I am not aware that any one has ever thought for a moment of prosecuting them. The same is true of a vast number of minor offences daily committed in asylums by patients who well know they are doing wrong. A like immunity is accorded persons not yet committed to asylums, if they are markedly insane. We have seen that it is quite the rule for patients to commit offences of greater or less magnitude before they are considered sufficiently insane for commitment. But when it is learned that these offences grew out of insanity, all thought of prosecution is given up at once ; pity supplanting desire for revenge in the minds of the injured ones.

Hence it appears that in the popular verdict insanity is regarded as *prima facie* evidence of irresponsibility. Why, then, it may be asked, do representative juries continue to mete out to insane offenders the same measure of justice dealt to ordinary criminals ? Simply because the juries are mystified as to the true mental condition of the accused. They are befogged in a clouded atmosphere of contradictory opinions, and at last decide that the person is not insane, hence that he should be judged by ordinary standards. Of course this decision is sometimes right ; but in a far larger number of cases the extenuating plea of insanity, when it is put forward, has a foundation in fact. But it is not to be expected that ordinary court-room methods will correctly establish one condition or the other. Nor can it reasonably be assumed that an ordinary jury is competent to decide, on such evidence as will be presented, first whether the accused is insane, and second whether his insanity is of such a nature as to make him incapable of distinguishing right from wrong. It is absurd to ask them to decide such intricate psychological problems—albeit such is the law. To understand fully the peculiar difficulties of these cases it must be remembered that the insane criminal is usually a paranoiac whose mental equipment is still in many respects acute. It is a difficult thing at any time to judge a fellow mortal correctly as to his light and his motive. Especially difficult then must it be to judge one whose ethical standards have been so peculiarly perverted as have those of the ordinary paranoiac.

Suppose it is shown that the prisoner knew that what he did was considered wrong by most people, and that it was an infringement of the law, but that he was actuated by an honest conviction that the ordinary ethical standard was wrong and the law infamous. He then, manifestly, considered himself to be doing right,—perhaps as setting the example of rectitude, which he believed would cause him in future generations to be regarded as a martyr in case the present generation should interpret his action by present faulty standards. This is the stuff that paranoiacs as well as prophets are made of.

Evidently, such a situation is a very intricate one. Yet this is precisely the problem with which juries are daily confronted. Witness, as a famous example, the Guiteau trial. What wonder if such a psychological tangle as this gives opportunity for differences of opinion? What wonder if each witness and each juror is biassed by his previous bent of mind, and lets sympathy or prejudice guide him where reason can no longer see its way? It is not an inspiring spectacle to see the insane man march to the gallows; but when is the taking of a human life an inspiring spectacle, even if Justice and Law seem to join hands to tie the fatal knot? But what better can be done? may be asked. It is puerile to find fault without suggesting a remedy. And in this case the best remedy is not easy to find. But I think that by glancing into wider fields of criminality we may at least gain some light. According to modern studies it appears that very few criminals of any class have strictly normal minds. Usually their ethical sense is congenitally deficient. Few habitual criminals have any such vivid appreciation of right and wrong *per se* as better classes of citizens entertain. Many of them take as instinctively to crime as persons of better heredity take to right living. They are the victims of hereditary and environmental tendencies which they did not choose, but which were thrust upon them, and which they are utterly unable to control. They are as much the victims of these perverted tendencies as is the insane man of his perverted sensations. Yet the law takes no cognizance of the plane of their ethics. It asks only: Did this man commit this crime? The jury is not asked to decide whether the alleged criminal had a keen sense of right and wrong. It has merely to decide on the evidence whether he did the thing which the law pronounces to be wrong. So of crimes committed under the influence of liquor. Intox-

ication is *nō* excuse. Very likely the inebriate was unable to tell right from wrong when he committed the overt act. That matters not: in the view of the law he voluntarily resigned his ethical standard when he took the alcohol into his system. But inebriety may also be a disease. Quite possibly the act by which the inebriate lost or perverted his moral standards was no more voluntary than the acts that led the other unfortunate to insanity. But the jury is not asked to weigh this question. It is only asked to decide whether the man committed the alleged crime.

Manifestly our courts are not consistent in their treatment of different classes of perverted minds. Perhaps the error is on the side of undue harshness towards the congenital criminal and the inebriate, but, even if this be true, the best remedy, it seems to me, is to make the law consistent with itself, and then modify it for the better if possible. A slight modification of custom regarding the trials of cases in which the plea of insanity is advanced would accomplish the first of these results. Nothing more is necessary than to waive the question of the defendant's mental condition during the trial by jury, admitting only evidence as to guilt or innocence of the alleged crime as in ordinary trials. If on this evidence the man is convicted, let the court then appoint a commission to inquire into his sanity. Such a commission, acting with due deliberation after the heat of legal controversy has no further sway, would surely stand a far better chance of deciding justly whether the offender were insane or not than could be done in the mystifying legal atmosphere of the ordinary court room. According to the decision of this commission, the criminal would be sent to the ordinary prison or to the asylum for criminals. In the latter case, the sentence should be made indeterminate. Perhaps it should also be indeterminate in the former case, but this is not to my present purpose. It may seem at first sight a harsh verdict that would submit a manifestly insane person to a trial that must humiliate his friends, if not himself. But, in the proper view, the thing to be regretted is that the man should have committed the crime, not that he should be tried for it. It may be added, however, that even under existing laws the acutely insane are seldom prosecuted for their unstudied crimes. They are sent directly to asylums, where their term of residence is usually conditioned on their recovery, this being, of course, the equivalent of an indeterminate sentence.

It is well not to evade the fact that with the chronically insane—the ones who usually cause the confusion in the courts—an indeterminate sentence is substantially a life sentence, since defectives of this class seldom recover. This very fact has been urged against the law in States where judges are empowered to make, at their discretion, substantially such a ruling as I have above suggested. But the criticism is unjust. If the object of confinement were mere punishment, then it would be unjust to confine a man for life because he has committed, perhaps, a minor crime. But modern penal institutions do not contemplate punishment or revenge. They aim, as far as may be, to prevent crime. And the paranoiac whose perverted moral standards have led him once to infringe on the rights of others will be almost certain to further infringe these rights if not placed permanently under surroundings that forcibly regulate his conduct. Under the conditions of modern asylum life, the paranoiac probably gets as much happiness out of his existence as he could possibly secure anywhere; and his friends may certainly rest easier under the assurance that he is, perforce, a safe member of the community than under the knowledge, which they must entertain were he at large, that he might at any time bring sorrow and disgrace to their door by the commission of some heinous crime to which disease had driven him. The spirit of altruism is abroad in the world—the exponent of advancing civilization—but true altruism nowhere teaches that the good of the many shall not still be paramount to the interest of the few. The laws of our social organism cannot safely be set aside in the interest of any class, however unfortunate. The insane person, criminal or not, should enjoy all the liberty consistent with a like liberty of his fellow citizens, but it would be a false and disastrous sentiment which, in the name of charity or pity, should seek to give him more than this. True charity tempers justice, but does not thwart it; true pity does not parade in the garb of sentimentality.

HENRY SMITH WILLIAMS.